

Claim 13

Claim 13 was also rejected under 35 USC § 103(a) as being unpatentable over Paul et al. as modified by Patzer and Wuchinich, and further in view of Berger et al. (U.S. 4,337,896).

The Examiner states that Berger teaches that aluminum, titanium and magnesium and their alloys have good acoustic conducting qualities. The Examiner states that it would have been obvious to utilize a magnesium alloy for making an acoustic element in order to reduce the cost of the transducer assembly.

Applicant again respectfully submits that the Examiner has not established the *prima facie* obviousness of the present claims.

Berger teaches an ultrasonic atomizer having a stepped amplifying section with a flanged atomizing tip.

Again, there is simply no suggestion *as to the desirability*, either in the cited references themselves or in the knowledge generally available to an art worker, of modifying the references as described or to combine the reference teachings as suggested for all of the reasons stated above. See In Re Sang Su Lee, *supra*. Clearly, the devices in each of the references cited are fundamentally different from each other and such critical differences must be recognized.

Applicant does not claim to have invented the first device using a magnesium alloy. Applicant is the first however, to provide the device recited in claim 1.

Furthermore, claim 13 is dependent on claim 1. The additional limitations provided in dependent claim 13 cannot by themselves be rendered obvious over the cited references if the independent claim from which it depends is determined to be nonobvious.

The references neither independently, or combined, contain each and every element of Applicant's claimed invention. Applicant respectfully submits that claim 13 is patentably distinct from the references, either alone or in combination. Claim 13, viewed as a whole, are not suggested by the cited references and not obvious under 35 U.S.C. 103. Reconsideration and withdrawal of this rejection is respectfully requested.

Allowable Subject Matter

Claims 4-6, 8, 11, 14, 16-18, 20, 22, 24, 25, 27 and 28 were objected to as being

dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Again, the Examiner has indicated that this paragraph should instead read that "claims 4-6, 8, 11, 14, 16-18, 20 and 22 are objected to as being dependent upon a rejected base claim. . ." as claims 24, 25, 27 and 28 are allowed.

The Applicant submits that all of the claims are now in condition for allowance. Reconsideration and withdrawal of this objection is respectfully requested.

Applicant notes with appreciation the allowance of claims 24-25, 27-28 and 32-74 (not 24, 25 and 27-74 as indicated on the cover sheet nor just claims 32-74 as indicated on page 4 of the Office Action mailed on March 21, 2002).

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (515-233-3865) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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By their Réprésentativés,

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Date JUNE 18, 2002

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 18th day of June, 2002.

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